

THURSDAY, February 4th, 1858.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called, quorum present.

The Journal of yesterday was read and adopted.

A message was received from the House informing the Senate that the House had passed the following bills, originating in the House :

A bill to exempt ferry boats from execution or other forced sales.

A bill to provide for the boring of Artesian Wells between the Nueces and Rio Grande rivers.

A bill making provisions for translating and printing certain general laws in the Spanish, German and Norwegian languages, &c.

A bill to abolish the office of Clerk of the County Court, and transferring the duties heretofore required of County Clerks to Chief Justices ; and

A bill to regulate proceedings in the County Courts pertaining to the estates of deceased persons.

Mr. Scarborough made the following report :

The committee on Printing and contingent Expenses, have considered the resolution relating to the Public Printer, and instruct me to report, a sense of justice to the gentlemen to whom this patronage has been awarded, compels the committee to state that it is within its own knowledge that the fault is not with the Public Printer, that the work has not been executed. Few of the reports of the various officers of the State government have as yet come to the hands of the committee, and in ordering them printed, they have been guided by the report of the printer himself, that such reports were being printed for the House of Representatives, and asking the number required for the Senate with such uncertain data, the committee may very naturally have omitted to have ordered the reports in question.

Mr. Taylor of Cass, introduced a bill for the relief of Wm. Lee ; read first time.

On motion of Mr. Taylor of Cass, the rule was suspended, bill read second time and ordered to be engrossed ; rule further suspended, bill read third time and passed.

Mr. Stockdale introduced a bill supplemental to the charter of the Aransas Road Company ; read first and second times and referred to the committee on Internal Improvements.

Mr. Taylor of Cass, introduced a bill to extend an act therein named; read first time.

On motion of Mr. Taylor of Cass, the rule was suspended, bill read second time and ordered to be engrossed; rule further suspended, bill read third time and passed.

Mr. Taylor of Fannin, introduced a bill to construe the meaning of the 2nd section of an act to amend the Memphis, El Paso and Pacific Railroad charter; read first time.

Mr. Taylor of Fannin, moved a suspension of the rules, upon which the yeas and nays stood as follows:

YEAS—Messrs. Burroughs, Fall, Guinn, Herbert, Hyde, McCulloch, Martin, Pirkey, Scarborough, Tankersly, Taylor of Cass, Taylor of Fannin, Throckmorton, Walker and Whaley—15.

NAYS—Messrs. Britton, Caldwell, Graham, Grimes, Lott, Maverick, Pedigo, Russell, Stockdale, Truitt and Wigfall—11.

So the motion failed, two-thirds not voting for the suspension.

On motion of Mr. Throckmorton, the bill was referred to the committee on Internal Improvements.

Mr. Taylor of Cass, Chairman of the committee on Public Debt, to which was referred a House bill for the relief of Wm. H. Jones, reported the same back and recommended its passage.

Mr. Burroughs, introduced a bill to incorporate the Opelousas and Texas Western Railroad Company; read first time.

On motion of Mr. Burroughs, the rule was suspended, bill read second time, and ordered to be engrossed; rule further suspended, bill read third time and passed by the following vote:

YEAS—Messrs. Britton, Burroughs, Caldwell, Erath, Fall, Grimes, Guinn, Herbert, Hyde, Lott, Martin, Maverick, Paschal, Pedigo, Pirkey, Scarborough, Stockdale, Taylor of Fannin, Truitt, Walker, Whaley and Wigfall—22.

NAYS—Messrs. Potter, Russell and Taylor of Cass—3.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported,

A bill to relinquish the right of the State to certain lands therein named, correctly engrossed.

Mr. Paschal made the following report:

The Judiciary committee have considered the accompanying bill, and see no objection to its becoming a law. The object of the incorporation is what its title purports, the manufacture of cotton and wollen goods in San Antonio, an object worthy

of encouragement from the State. No lands or exclusive privileges are asked, and the capital is limited to \$50,000, and the duration of the charter to twenty years :

"A bill to incorporate, the San Antonio Cotton and Woollen Manufacturing Company ;" read first time.

On motion of Mr. Paschal, the rule was suspended, bill read second time and ordered to be engrossed ; rule further suspended, bill read third time and passed by the following vote :

YEAS—Messrs. Britton, Caldwell, Erath, Fall, Graham, Grimes, Guinn, Herbert, Hyde, Lott, McCulloch, Maverick, Paschal, Pedigo, Pirkey, Potter, Stockdale, Taylor of Cass, Taylor of Fannin, Throckmorton, Truitt, Walker, Whaley and Wigfall—24.

NAYS—None.

Mr. Walker moved a suspension of the rules in order to take up a bill to authorize the Chief Justice of Tarrant county to order an election to relocate the county seat of said county—carried by the following vote :

YEAS—Messrs. Britton, Burroughs, Fall, Graham, Guinn, Herbert, Hyde, Lott, Martin, Maverick, Paschal, Pirkey, Russell, Scarborough, Stockdale, Tankersly, Taylor of Cass, Taylor of Fannin, Truitt, Walker, Whaley and Wigfall—22.

NAYS—Messrs. Caldwell, Erath, Grimes, McCulloch, Shepard and Throckmorton—6.

The bill was then taken up and read.

Mr. Throckmorton moved its indefinite postponement—lost by the following vote :

YEAS—Messrs. Britton, Caldwell, Graham, Grimes, Herbert, Hyde, McCulloch, Paschal, Shepard, Taylor of Fannin, and Throckmorton—11.

NAYS—Messrs. Burroughs, Erath, Fall, Guinn, Lott, Martin, Maverick, Pirkey, Russell, Scarborough, Stockdale, Tankersly, Taylor of Cass, Truitt, Walker, Whaley and Wigfall—17.

Mr. McCulloch made a point of order as follows :

"This bill, embracing the same object, which the bill heretofore rejected by the Senate, at this session embraced, which object is the permanent location of the county seat of Tarrant county ; also, clearly embraces the same "substance," and consequently it is not in the power of the Senate, under the constitution (Sec. 22, Legislative Department,) to entertain the bill."

The question as to the power of the Senate to entertain the bill under consideration, was submitted by the Chair to the Senate for its decision.

Those in favor of entertaining the bill voting in the affirmative ; those of a contrary opinion voting in the negative.

YEAS—Messrs. Burroughs, Erath, Fall, Graham, Grimes, Guinn, Hyde, Lott, Martin, Maverick, Paschal, Pirkey, Potter, Russell, Scarborough, Stockdale, Walker and Wigfall—18.

NAYS—Messrs. Britton, Herbert, McCulloch, Tankersly, Taylor of Cass, Taylor of Fannin, Throckmorton and Truitt—8.

The question being on the engrossment of the bill, the yeas and nays stood thus :

YEAS—Messrs. Burroughs, Erath, Fall, Guinn, Lott, Martin, Maverick, Pirkey, Russell, Scarborough, Taylor of Cass, Truitt and Walker—13.

NAYS—Messrs. Britton, Graham, Grimes, Herbert, Hyde, McCulloch, Paschal, Potter, Stockdale, Tankersly, Taylor of Fannin, Throckmorton and Wigfall—13.

There being a tie vote, the President voted in the affirmative. So the bill was ordered to be engrossed.

On motion of Mr. Throckmorton, the rule was suspended and bill read a third time.

Upon the final passage of the bill, the yeas and nays stood thus :

YEAS—Messrs. Burroughs, Erath, Fall, Guinn, Lott, Martin, Maverick, Pirkey, Russell, Scarborough, Taylor of Cass, Walker and Whaley—13.

NAYS—Messrs. Britton, Caldwell, Graham, Grimes, Herbert, Hyde, McCulloch, Paschal, Potter, Shepard, Stockdale, Tankersly, Taylor of Fannin, Throckmorton, Truitt and Wigfall—16.

So the bill was rejected.

Mr. Maverick, by leave, presented the petition of John W. Hayden ; referred to the committee on Private Land Claims.

On motion of Mr. Russell, a House bill to regulate proceedings in the County Courts pertaining to the estates of deceased persons, was taken up, read first and second times and made the special order for to-morrow at 11 o'clock, A. M.

A message was received from the House informing the Senate that the House had passed a bill originating in that body, to construe the meaning of the 2nd Sec. of an act to amend the Memphis, El Paso and Pacific Railroad charter.

Mr. Taylor of Fannin, moved a suspension of the rules, in order that the bill might be taken up—lost.

On motion of Taylor of Cass, the Senate adjourned until 3 o'clock, P. M.

3 O'CLOCK, P. M.

The Senate met—roll called—quorum present.

Mr. Pirkey moved to reconsider the vote taken on yesterday upon the passage of a bill to relinquish the right of the State to certain lands therein named.

On motion of Mr. Burroughs, the motion was laid on the table until Saturday.

Mr. Pedigo moved to take up a Senate bill to create the county of Chambers, with amendments from the House—lost.

On motion of Mr. Wigfall, the Senate proceeded to the consideration of its special order, and the bill supplemental to an act incorporating the Texas Western Railroad Company, approved February 16, 1852, which name was changed to the Southern Pacific Railroad Company, by an act passed August 16, 1856, was read second time.

Mr. Pirkey offered a bill authorizing the Southern Pacific and the Memphis, El Paso and Pacific Railroad Companies to form a junction and build a common trunk road to El Paso.

On motion of Mr. Martin, the bill and substitute were referred to the committee on Internal Improvements.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported the following bills correctly engrossed :

A bill to authorize the Tellico Manufacturing Company to construct and maintain a toll bridge across the Trinity river.

A bill granting to Abner C. Davis pay for services in the army of the Republic of Texas ; and

A bill to amend the 5th, 9th and 10th Sections of an act incorporating the Clarksville and Mount Pleasant Turnpike Company.

Mr. Potter made the following report :

The Judiciary committee have considered a House bill to relinquish the State tax for the years 1858 and 1859, to certain counties for the purposes therein mentioned, and a majority of the committee instruct me to recommend its passage.

A message was received from the Governor transmitting the following communication :

EXECUTIVE OFFICE, }
FEBRUARY 4th, 1858. }

Gentlemen of the Senate,

and House of Representatives :

After the most mature deliberation, I feel myself reluctantly compelled to return without my approval, an act to amend an act to incorporate the Memphis, El Paso and Pacific Railroad Company, approved February 4th, 1856 ; and also the act supplementary thereto, approved February 5th, 1856.

The original charter of this Company required of them, to grade one hundred miles of road within four years from and after the time prescribed for its commencement by the act of incorporation. The present amendment proposes to grant six years from and after the passage, for the completion of one-half the amount of grade required by the original charter, unless a connection should be sooner obtained with some other road, and after such connection has been obtained, to build and put in running order only ten miles per annum thereafter. There is, and can be to my mind, no good reason existing for such extraordinary delay. By it, not only the hopes of those who have been induced to embark their means in the enterprise, are unnecessarily deferred and disappointed, but the object, which may be presumed to have controlled the State, in granting the charter is defeated, and its consideration forfeited. That object, by the terms of the charter, was the preliminary advancement of the work, preparatory to its early completion, whenever the desired and necessary connection could be obtained.

I have said on a former occasion, " the State could have had but one object in the incorporation of Railroad Companies, and that the present and immediate commencement and construction of the roads. Had any other been apprehended, the assent of the people would not have been obtained ; that the donations were made for the present and not for the future, and if she (the State,) must wait ten or twenty years for the attainment of her wishes, it is more than folly to encumber her domain further at this time, when it is obvious that it will increase in a ratio of five or ten fold in value, before their realization." I can see no good or sufficient reasons for abandoning these opinion at this early period.

From my own knowledge, I am satisfied that it is not necessary or indispensable to the interest of the Company, that it should be done in this instance.

The charter has yet more than two years to run, the Company are free from debt, with a larger *bona fide* stock subscription than any other in the State, with a single exception, and a portion of their work under contract. They have only to persevere in an honest endeavor to comply with their engagements to entitle themselves to the most liberal consideration in future.

It will be fully in the power of another Legislature to grant them whatever measure of relief they may entitle themselves to, by a faithful effort to advance the object of their incorporation.

To doubt that they will meet an award proportioned to their merits or demerits, or, that they will be relieved of the onerous and impracticable conditions which it was the object of this bill in part to remove, under proper representations to the Legislature, would be to doubt, not only the discriminating justice, but the fidelity of the representatives of the people to that cause which so greatly involves every prospect of present and future developement of the best interest of our entire State.

If the measure of relief proposed had extended only to the removal of these unnecessary conditions, with which it will be impossible for the company to comply, without neglecting or prejudicing the advancement of the enterprise, which was the only object of the charter, or if the time allowed for the completion of the first fifty miles of grade had been limited within reasonable bounds, I could then, from my knowledge of the situation of the company, in regard both to its ability and good faith in endeavoring to fulfil public expectation, have given the measure a warm and sincere approval.

H. R. RUNNELS.

On motion of Mr. Taylor of Cass, the message and bill were laid on the table.

On motion of Mr. Potter, the Senate adjourned until 7 o'clock, P. M.

7 O'CLOCK, P. M.

The Senate met—roll called—quorum present.

A Senate bill to create the county of "Chambers," with amendments from the House, was taken up, read and the amendments of the House concurred in by the Senate.

On motion of Mr. Herbert, a bill donating eight leagues of land to the Texas Orphan Asylum, was taken from the table, read and ordered to be engrossed by the following vote :

YEAS—Messrs. Caldwell, Herbert, McCulloch, Martin, Paschal, Potter, Shepard, Tankersly, Taylor of Cass, Throckmorton, Walker and Whaley—12.

NAYS—Messrs. Burroughs, Erath, Fall, Graham, Grimes, Guinn, Pirkey, Russell, Stockdale, Taylor of Fannin, and Truitt—11.

Mr. Herbert moved to suspend the rule—lost.

Mr. Burroughs, from the committee on Enrolled Bills, reported the following bills correctly enrolled, properly signed and this day presented to the Governor :

A bill to incorporate the Nueces Bridge and Turnpike Company.

A bill supplemental to an act to provide for the support of schools, approved,———1856.

A bill for the relief of pre-emption settlers.

A bill to purchase a site for the permanent location of the Institution for the Education of the Deaf and Dumb.

A bill for the relief of James A. Yeoman.

A bill to amend an act to create the county of Brown.

A bill to legalize the organization of Jack county.

A bill to locate the county seat of Jack county.

A bill for the relief of Jacob H. Shepard.

A bill to amend the charter of the San Antonio River Navigation Company.

A bill to amend an act to incorporate the town of Madison.

A bill to reorganize the 13th Judicial District.

A bill to change the names of certain towns therein named.

A bill to incorporate the Columbus, San Antonio and Rio Grande Railroad Company.

A Joint Resolution to authorize the Governor and Comptroller to provide for remodeling the roof and recovering the Capitol and old Land Office.

A bill to amend an act to provide for the incorporation of towns and cities.

A bill to ascertain what land certificates have been illegally issued by the County Courts in Peters' Colony, and to provide for issuing patents upon such as are legal, &c.

A bill to provide for the organization of the State Lunatic Asylum, and for the care and maintenance of the Insane.

A bill to extend the time for letting the contracts for the improvement of Galveston and St. Louis Bays, &c., &c.

A bill for the relief of the heirs of Wm. Freer, deceased.

A bill to amend an act to organize the county of Upshur, and a bill for the relief of Wm. Walker.

The Senate then proceeded to the consideration of the joint resolution relative to the arrest of Gen. William Walker, the special order for to-night.

On motion of Mr. Martin, the further consideration of the joint resolution was postponed until Saturday next at 7 o'clock, P. M.

On motion of Mr. Guinn, the Senate adjourned until tomorrow 10 o'clock.

FRIDAY, February 5, 1858.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The Journal of yesterday was read and adopted.

A message was received from the House informing the Senate that the House had passed—

A bill originating in the House, to provide the manner in which the fund set aside for the improvement of Buffalo Bayou shall be expended.

And the following bills originating in the Senate :

A bill to incorporate the Guadalupe Bridge Company.

A bill for the relief of William Lee, and

A bill to repeal the act of January 28th, 1856, to authorize and require the county court of Brazoria county to establish, regulate and discontinue roads, public and private, &c. &c., and the act supplemental thereto, approved Aug. 11, 1856.

And that the House had concurred in the amendment of the Senate to,

A bill to incorporate the Fire Association of San Antonio.

On motion of Mr. Tankersly, the House bill providing the manner in which the fund set aside for the improvement of